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PATENT TRADEMARK OFFICE

Patent
Case No.: 57283US002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICIAL

First Named Inventor:	BRAUNSCHWEIG, EHRICH J.		
Application No.:	10/033436	Group Art Unit:	3723
Filed:	December 28, 2001	Examiner:	McDonald, Shantese L.
Title:	BACKING AND ABRASIVE PRODUCT MADE WITH THE BACKING AND METHOD OF MAKING AND USING THE BACKING AND ABRASIVE PRODUCT		

ELECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF TRANSMISSION
To Fax No.: 703-872-9302
I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office on:

September 16, 2003
Date

Signed by: Richard Francis

Dear Sir:

This is in response to the Office Action mailed August 27, 2003.

Claims 1-32 are pending in the application. Claims 1-32 are subject to a restriction requirement under 35 USC § 121, as follows:

I. Claims 1-16, drawn to an abrasive article, classified in class 451, subclass 530; and

II. Claims 17-32, drawn to a method for making an abrasive article, classified in class 51, subclass 299.

The office action indicates that the inventions are distinct, each from the other because of the following reasons:

> Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the abrasive article can be made by a materially different process, for example the article can be made by injection molding.

The office action indicates that because these inventions are distinct for the reasons given above and a search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Applicants hereby elect Group I, claims 1-16, drawn to an abrasive article.

Applicants submit the Groups I and II claims are so interrelated that a search of one group of claims will reveal art to the other. Moreover, the classification of Groups I and II claims in different classes and subclasses is not sufficient grounds to require restriction.

Were restriction to be effected between the claims in Groups I and II, a separate examination of the claims in Groups I and II would require substantial duplication of work on the part of the U.S. Patent and Trademark Office. Even though some additional consideration would be necessary, the scope of analysis of novelty of all the claims of Groups I and II would have to be as rigorous as when only the claims of Group I were being considered by themselves. Clearly, this duplication of effort would not be warranted where these claims of different categories are so interrelated. Further, Applicants submit that for restriction to be effected between the claims in Groups I and II, it would place an undue burden by requiring payment of a separate filing fee for examination of the nonelected claims, as well as the added costs associated with prosecuting two applications and maintaining two patents.

It is believed that no fee is due; however, in the event a fee is required, please charge the fee to Deposit Account No. 13-3723.

Respectfully submitted,

September 16, 2003
Date

By: _____
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Office of Intellectual Property Counsel
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